

COPY**FILED**

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

GEN-PROBE, INCORPORATED,

Plaintiff,

v.

VYSIS, INC.,

Defendant.

CASE NO. 99CV 2668H (AJB)

DECLARATION OF L. SCOTT
BURWELL IN SUPPORT OF VYSIS'
OPPOSITION TO GEN-PROBE
INCORPORATED'S MOTION FOR
PARTIAL SUMMARY JUDGMENT
OF NONINFRINGEMENT UNDER
THE DOCTRINE OF EQUIVALENTS

Date: November 13, 2001
Time: 10:30 a.m.
Place: Courtroom 1

FILED BY FAX

I, L. Scott Burwell, declare and state as follows:

1. I have personal knowledge of the facts set forth in this declaration.

1 2. I am an attorney licensed to practice in the Commonwealth of Virginia and the District of
2 Columbia and am admitted *pro hac vice* in this case in the United States District Court for the
3 Southern District of California. I am an associate at the law firm of Finnegan, Henderson, Farabow,
4 Garrett & Dunner, L.L.P., and represent Defendant Vysis, Inc. in this litigation.

5 3. Attached as Exhibit A to this declaration is a true and correct copy of a publication by
6 Craig S. Hill, Ph.D., entitled "Gen-Probe Transcription-Mediated Amplification: System
7 Principles."

8 4. Attached as Exhibit B to this declaration is a true and correct copy of an excerpt from Dr.
9 Daniel L. Kacian's laboratory notebook number 1728.

10 5. Attached as Exhibit C to this declaration is a true and correct copy of pages 202-203 of
11 the deposition of Dr. Daniel L. Kacian.

12 6. Attached as Exhibit D to this declaration is a true and correct copy of a publication by
13 Powell *et al.*, "A Novel Form of Tissue-Specific RNA Processing Produces Apolipoprotein-B48 in
14 Intestine," *Cell* 50:831-40 (1987).

15
16 I declare under penalty of perjury under the laws of the United States of America that the
17 foregoing is true and correct to the best of my knowledge and belief.

18 Executed this 29th day of October, 2001, at Washington, D.C.

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21 L. Scott Burwell

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EXHIBITS

Declaration of L. Scott Burwell in Support of Vysis' Opposition to Gen-Probe Incorporated's Motion for Partial Summary Judgment of Noninfringement under the Doctrine of Equivalents

Exhibit A	Publication by Craig S. Hill, Ph.D., entitled "Gen-Probe Transcription-Mediated Amplification: System Principles."	3
Exhibit B	Excerpt from Dr. Daniel L. Kacian's laboratory notebook number 1728 [FILED UNDER SEAL]	7
Exhibit C	Pages 202-203 of the deposition of Dr. Daniel L. Kacian [FILED UNDER SEAL]	8
Exhibit D	Publication by Powell et al., "A Novel Form of Tissue-Specific RNA Processing Produces Apolipoprotein-B48 in Intestine,"	9